

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 127 of 2000

with

CIVIL APPLICATION NO. 1657 OF 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANCE CO. LTD.

Versus

MANGAJI KHEMAJI VANZARA

Appearance:

MR SHASHIKANT S GADE for Petitioner

MR MEHUL SHARAD SHAH for Respondent No. 1

NOTICE SERVED for Respondent No. 5, 6

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE K.M.MEHTA

Date of decision: 13/09/2000

The only short question which is raised before us in this appeal under Section 173 of the Motor Vehicles Act, 1988 (hereinafter referred to as 'the MV Act') is with regard to involvement of maruti car bearing registration No. GJ-1 1548 in the accident. Therefore, the challenge is against the amount of interim compensation awarded by the Motor Accident Claims Tribunal (Auxiliary), Mehsana below Exh. 5 during the pendency of MACP No. 912 of 1997. The Tribunal has directed the appellant insurer of the said car to pay a sum of Rs. 50,000/- with running interest at the rate of 12% per annum from the date of filing of main claim petition till the date of payment.

2. After having taken into consideration the facts and circumstances and the copies of the papers relied on by the Tribunal and the submissions, we find this appeal without any substance. The very design and desideratum of incorporating the provisions of Section 140 in the MV Act is to see that the victims of road accident have not to starve during the pendency of the main petition as it takes long period for the disposal on merits. Section 140 is therefore designed for providing interim compensation during the pendency of the main petition. At this stage, the Tribunal is required to consider, prima- facie, evidence. After having considered the impugned order below Exh. 5, we are satisfied it is justified in the facts of the case. Merely because number of the vehicle involved in the accident was given or found out after a long time, ipso facto, would not lead to an inference of wrong involvement or false involvement of the vehicle in the accident. An F.I.R. was lodged immediately, after the accident and, obviously, a person who is the author of such information by variety of reasons may not be able to know the exact number of the vehicle. On the contrary this shows, prima facie, that the person who lodged F.I.R. before the police has just narrated what he had seen. Upon being the F.I.R. lodged, the concerned police authority investigated into it and found out involvement of the maruti car with a particular number. In our opinion, therefore, the sole contention that the number was, subsequently, found out or that the F.I.R. did not contain the number when it was lodged is not sufficient to interfere with the interim amount of given under the impugned order in exercise of powers under Section 140 of the MV Act by the Tribunal. The sole contention before us must fail. It is accordingly rejected.

In the result, the appeal is dismissed. Notice

shall stand discharged with costs.

Since the main appeal is dismissed, no orders are
passed on the Civil Application.

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